21-10249-mg Doc 70 Filed 04/21/21 Entered 04/21/21 16:44:02 Main Document Pg 1 of 9

Stephen E. Hessler, P.C.

Chad J. Husnick, P.C.

Thomas M. Farrell (admitted *pro hac vice*)

K. Elizabeth Sieg (admitted *pro hac vice*)

Joseph Florczak (admitted *pro hac vice*)

AnnElyse Scarlett Gains

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

Richmond, Virginia 23219

601 Lexington Avenue Telephone: (804) 775-1000

Co-Counsel for Navient Solutions, LLC

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

| In re |) Chapter 11 |
|-------------------------|--------------------------|
| NAVIENT SOLUTIONS, LLC, |) Case No. 21-10249 (MG) |
| Putative Debtor. |))) |

AMENDED¹ AGENDA FOR APRIL 22, 2021 TELEPHONIC HEARING

Time and Date of Hearing: April 22, 2021 at 10:00 a.m. (prevailing Eastern Time)

Telephonic Only Hearing: In accordance with General Order M-543 ("General Order M-543"),

dated March 20, 2020, the Hearing will only be conducted telephonically. Any parties wishing to participate in the Hearing must make arrangements through CourtSolutions LLC. Instructions to register for CourtSolutions LLC are attached to General Order M-543. Please register with Court Solutions at www.court-solutions.com.

Copies of Motions: A copy of each pleading can be viewed on the Court's website at

http://www.nysb.uscourts.gov).

_

¹ Amended items will appear in **bold** text.

I. <u>CONTESTED MATTER GOING FORWARD</u>:

1. *Motion for Attorneys' Fees and Costs*. Motion for Attorneys' Fees and Costs Pursuant to 11 U.S.C. §303(i) [Docket No. 54].

Objection Deadline: April 15, 2021, at 4:00 p.m. (prevailing Eastern Time).

Objections and Responses Received:

- A. Appellants' Notice of Motion Under FRBP 8007 for the Following Relief:
 (A) A Stay of Enforcement of the Bankruptcy Court's Dismissal Orders to the Extent That Such Dismissal Orders Adjudicate Merits Issues - Pending the District Court's Appellate Determination of A Threshold Subject Matter Jurisdiction Issue as to Whether the Bankruptcy Court, Once it Declined to Exercise Jurisdiction over the Involuntary Bankruptcy Case Under 11 U.S.C. 305 and Dismissed it Thereunder, Was Constitutionally Prohibited, Under Article Iii of the United States Constitution, from Adjudicating Any Merits Issues in A Jurisdictionally-Rejected, Involuntary Bankruptcy Case; and (B) an Immediate Interim Stay - Pending A Ruling on the Motion for A Stay Pending Appeal [Docket No. 57].
 - i. Order Denying Applications for Stay Pending Appeal [Docket No. 59].
- A. Alleged Debtor's Post-Dismissal Legal Fee Application under 11 U.S.C. 303(i)(1) against nonparty and its nonparty counsel (Dkt 54--56) - pending a Bankruptcy Court ruling on a stay pending appeal motion filed by Petitioning Creditors and their counsel (Dkt 57) [Docket No. 58].
 - i. Order Denying Applications for Stay Pending Appeal [Docket No. 59].
- B. Objection by Petitioning Creditors to Motion for Attorneys' Fees and Costs Pursuant to 11 U.S.C. §303(i) [Docket No. 60].
- C. First Motion for Adjournment for Two Business Days to April 19, 2021 for response to post-dismissal proceeding filed by alleged debtor against Public Interest Capital, LLC, Michael B. Wolk and Law Offices of Michael B. Wolk, P.C. [Docket No. 61].
- D. Memorandum of Law for Nonparty Public Interest Capital LLC, and Nonparty Counsel for Nonparty Public Interest Capital LLC, in Opposition to the Alleged Debtor's Post-Dismissal Legal Fee Shifting Liability Motion Against Those Nonparties [Docket No. 63].
- E. Application by PICAP NonParties (A) to Strike New Arguments in Navient Reply Brief Filed Late Yesterday [Dkt 64] Or, Alternatively, to Grant Leave to the PICAP NonParties to File a Sur-Reply, in Response to Navient New

Arguments, by a Date to be Designated by the Court and, in Addition, (B) for Court Consideration of the Legal Reasons Herein from the PICAP Nonparties as an Authorized Sur-Reply to Navient New Arguments and (C) Related Relief [Docket No. 66].

F. In re Navient Solutions, LLC ("Navient"), Case No. 21-10249 (MG) PICAP Reply in Response to Navient Opposition to Application [Dkt 66] [Docket No. 69].

Putative Debtors' Pleadings and Related Documents:

- A. Declaration of Stephen E. Hessler in Support of Navient's Motion for Attorneys' Fees and Costs Pursuant to 11 U.S.C. Section 303(i) [Docket No. 55].
- B. Certificate of Service (Re Docket Nos. 54, 55) [Docket No. 56].
- C. Letter from Chad. J. Husnick to Judge Martin Glenn [Docket No. 62].
- D. Reply in Support of Navient's Motion for Attorneys' Fees and Costs Pursuant to 11 U.S.C. §303(i) [Docket No. 64].
- E. Certificate of Service (Re Docket Nos. 62, 64) [Docket No. 65].
- F. Objection to Application by PICAP NonParties (A) to Strike New Arguments in Navient Reply Brief Filed Late Yesterday [Dkt 64] Or, Alternatively, to Grant Leave to the PICAP NonParties to File a Sur-Reply, in Response to Navient New Arguments, by a Date to be Designated by the Court and, in Addition, (B) for Court Consideration of the Legal Reasons Herein from the PICAP Nonparties as an Authorized Sur-Reply to Navient New Arguments and (C) Related Relief [Docket No. 68].

Status: This matter is going forward.

Dated: April 21, 2021

/s/ Stephen E. Hessler

Stephen E. Hessler, as President of Stephen E. Hessler P.C., partner of Kirkland & Ellis LLP Chad J. Husnick, P.C.

Jennifer Levy (admitted pro hac vice)

AnnElyse Scarlett Gains

KIRKLAND & ELLIS LLP KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022 Telephone: (212) 446-4800 Facsimile: (212) 446-4900

Email: stephen.hessler@kirkland.com
Email: chad.husnick@kirkland.com
Email: jennifer.levy@kirkland.com
Email: annelyse.gains@kirkland.com

Co-Counsel for Navient Solutions, LLC

Thomas M. Farrell (admitted *pro hac vice*) K. Elizabeth Sieg (admitted *pro hac vice*) Joseph Florczak (admitted *pro hac vice*)

MCGUIREWOODS LLP

800 East Canal Street
Richmond, Virginia 23219
Telephone: (804) 775-1000
Email: tfarrell@mcguirewoods.com
Email: bsieg@mcguirewoods.com
Email: jflorczak@mcguirewoods.com

Co-Counsel for Navient Solutions, LLC

Exhibit A

Redline to Agenda Filed on April 20, 2021 [Docket No. 67]

Filed 04/21/21 Entered 04/21/21 16:44:02 21-10249-mg Doc 70 Main Document Pa 6 of 9

Stephen E. Hessler, P.C. Thomas M. Farrell (admitted *pro hac vice*) Chad J. Husnick, P.C. K. Elizabeth Sieg (admitted pro hac vice) Jennifer Levy (admitted pro hac vice) Joseph Florczak (admitted pro hac vice)

AnnElyse Scarlett Gains MCGUIREWOODS LLP KIRKLAND & ELLIS LLP 800 East Canal Street KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022 Telephone: (212) 446-4800 Facsimile: (212) 446-4900

Co-Counsel for Navient Solutions, LLC

Richmond, Virginia 23219 Telephone: (804) 775-1000

Co-Counsel for Navient Solutions, LLC

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

| In re |) | Chapter 11 |
|-------------------------|---|------------------------|
| |) | |
| NAVIENT SOLUTIONS, LLC, |) | Case No. 21-10249 (MG) |
| Putative Debtor. |) | |
| |) | |

AMENDED¹ AGENDA FOR APRIL 22, 2021 TELEPHONIC HEARING

Time and Date of Hearing: April 22, 2021 at 10:00 a.m. (prevailing Eastern Time)

Telephonic Only Hearing: In accordance with General Order M-543 ("General Order M-543"),

> dated March 20, 2020, the Hearing will only be conducted telephonically. Any parties wishing to participate in the Hearing must make arrangements through CourtSolutions LLC. Instructions to register for CourtSolutions LLC are attached to General Order M-543. Please register with Court Solutions at www.court-solutions.com.

Copies of Motions: A copy of each pleading can be viewed on the Court's website at

http://www.nysb.uscourts.gov).

Amended items will appear in **bold** text.

I. <u>CONTESTED MATTER GOING FORWARD</u>:

1. *Motion for Attorneys' Fees and Costs*. Motion for Attorneys' Fees and Costs Pursuant to 11 U.S.C. §303(i) [Docket No. 54].

Objection Deadline: April 15, 2021, at 4:00 p.m. (prevailing Eastern Time).

Objections and Responses Received:

- A. Appellants' Notice of Motion Under FRBP 8007 for the Following Relief:
 (A) A Stay of Enforcement of the Bankruptcy Court's Dismissal Orders to the Extent That Such Dismissal Orders Adjudicate Merits Issues - Pending the District Court's Appellate Determination of A Threshold Subject Matter Jurisdiction Issue as to Whether the Bankruptcy Court, Once it Declined to Exercise Jurisdiction over the Involuntary Bankruptcy Case Under 11 U.S.C. 305 and Dismissed it Thereunder, Was Constitutionally Prohibited, Under Article Iii of the United States Constitution, from Adjudicating Any Merits Issues in A Jurisdictionally-Rejected, Involuntary Bankruptcy Case; and (B) an Immediate Interim Stay - Pending A Ruling on the Motion for A Stay Pending Appeal [Docket No. 57].
 - i. Order Denying Applications for Stay Pending Appeal [Docket No. 59].
- A. Alleged Debtor's Post-Dismissal Legal Fee Application under 11 U.S.C. 303(i)(1) against nonparty and its nonparty counsel (Dkt 54--56) - pending a Bankruptcy Court ruling on a stay pending appeal motion filed by Petitioning Creditors and their counsel (Dkt 57) [Docket No. 58].
 - i. Order Denying Applications for Stay Pending Appeal [Docket No. 59].
- B. Objection by Petitioning Creditors to Motion for Attorneys' Fees and Costs Pursuant to 11 U.S.C. §303(i) [Docket No. 60].
- C. First Motion for Adjournment for Two Business Days to April 19, 2021 for response to post-dismissal proceeding filed by alleged debtor against Public Interest Capital, LLC, Michael B. Wolk and Law Offices of Michael B. Wolk, P.C. [Docket No. 61].
- D. Memorandum of Law for Nonparty Public Interest Capital LLC, and Nonparty Counsel for Nonparty Public Interest Capital LLC, in Opposition to the Alleged Debtor's Post-Dismissal Legal Fee Shifting Liability Motion Against Those Nonparties [Docket No. 63].
- E. Application by PICAP NonParties (A) to Strike New Arguments in Navient Reply Brief Filed Late Yesterday [Dkt 64] Or, Alternatively, to Grant Leave to the PICAP NonParties to File a Sur-Reply, in Response to Navient New

Arguments, by a Date to be Designated by the Court and, in Addition, (B) for Court Consideration of the Legal Reasons Herein from the PICAP Nonparties as an Authorized Sur-Reply to Navient New Arguments and (C) Related Relief [Docket No. 66].

F. In re Navient Solutions, LLC ("Navient"), Case No. 21-10249 (MG)

PICAP Reply in Response to Navient Opposition to Application [Dkt 66] [Docket No. 69].

Putative Debtors' Pleadings and Related Documents:

- A. Declaration of Stephen E. Hessler in Support of Navient's Motion for Attorneys' Fees and Costs Pursuant to 11 U.S.C. Section 303(i) [Docket No. 55].
- B. Certificate of Service (Re Docket Nos. 54, 55) [Docket No. 56].
- C. Letter from Chad. J. Husnick to Judge Martin Glenn [Docket No. 62].
- D. Reply in Support of Navient's Motion for Attorneys' Fees and Costs Pursuant to 11 U.S.C. §303(i) [Docket No. 64].
- E. Certificate of Service (Re Docket Nos. 62, 64) [Docket No. 65].
- F. Objection to Application by PICAP NonParties (A) to Strike New Arguments in Navient Reply Brief Filed Late Yesterday [Dkt 64] Or, Alternatively, to Grant Leave to the PICAP NonParties to File a Sur-Reply, in Response to Navient New Arguments, by a Date to be Designated by the Court and, in Addition, (B) for Court Consideration of the Legal Reasons Herein from the PICAP Nonparties as an Authorized Sur-Reply to Navient New Arguments and (C) Related Relief [Docket No. 68].

Status: This matter is going forward.

Dated: April 2021, 2021

/s/ Stephen E. Hessler

Stephen E. Hessler, as President of Stephen E. Hessler P.C., partner of Kirkland & Ellis LLP Chad J. Husnick, P.C.

Jennifer Levy (admitted pro hac vice)

AnnElyse Scarlett Gains

KIRKLAND & ELLIS LLP KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022 Telephone: (212) 446-4800 Facsimile: (212) 446-4900

Email: stephen.hessler@kirkland.com
Email: chad.husnick@kirkland.com
Email: jennifer.levy@kirkland.com
Email: annelyse.gains@kirkland.com

Co-Counsel for Navient Solutions, LLC

Thomas M. Farrell (admitted *pro hac vice*) K. Elizabeth Sieg (admitted *pro hac vice*) Joseph Florczak (admitted *pro hac vice*)

MCGUIREWOODS LLP

800 East Canal Street
Richmond, Virginia 23219
Telephone: (804) 775-1000
Email: tfarrell@mcguirewoods.com
Email: bsieg@mcguirewoods.com
Email: jflorczak@mcguirewoods.com

Co-Counsel for Navient Solutions, LLC